

EXHIBIT 1

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FILED
Superior Court of California
County of Los Angeles

04/20/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: N. Osallo Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

NATHAN CAMPOS, an individual,
Plaintiffs,

v.

DANIEL HELMHOLD, an individual,
BIG FISH GAMES, INC., a Washington
corporation; ARISTOCRAT LEISURE
LTD, an Australian corporation, and
DOES 1 THROUGH 10, inclusive;

Defendant.

Case No. 22STCV12112

Assigned to: Hon. Christopher K. Lui
Dept: 76

FIRST AMENDED COMPLAINT:

1. Violation of California's Unfair Competition Law ("UCL")
2. Violation of California False Advertising Law ("FAL")
3. Violation of the California Consumer Legal Remedies Act ("CLRA")
4. Fraud
5. Negligent Misrepresentation
6. Unjust Enrichment

CLASS ACTION

Plaintiff Nathan Campos ("Plaintiff"), individually and on behalf of all others similarly situated, hereby brings this Class Action Complaint against Daniel Helmholt ("Helmhold"), an individual, Big Fish Games, Inc. ("Big Fish"), a Washington corporation,

1 and Aristocrat Leisure Limited (“Aristocrat Leisure”), an Australian corporation
 2 (collectively “Defendants”). Plaintiff alleges as follows:

3 INTRODUCTION

4 1. This lawsuit is brought as a class action on behalf of Plaintiff and
 5 thousands of similarly situated individual gamers who have been deceived into making
 6 in-game purchases of deceptively marketed in-game items in the mobile application
 7 games Big Fish Casino and Jackpot Magic Slots (collectively, “Games”). Having
 8 already been found by the Ninth Circuit as has having engaged in illegal gambling
 9 operations, under the leadership of Daniel Helmhold as its VP of Growth and with the
 10 support of new parent company, Aristocrat Leisure, Big Fish has continued its deceptive
 11 business practices to continue offering casino-style games that deploy false and
 12 misleading advertising practices in an effort by Big Fish Gaming to continue preying on
 13 and illegally profiting from its consumers. Specifically, Defendants have falsely
 14 advertised price discounts for in-game purchases to mislead and induce Plaintiff and
 15 those similarly situated into making in-game purchases.

16 2. Defendant Big Fish Games is a developer of slot machine-based “Social
 17 Casino” games. Its marquee product is Big Fish Casino. On information and belief, Big
 18 Fish Casino drives annual revenues in excess of \$100 million. Through “Big Fish
 19 Casino” and “Jackpot Magic Slots,” Big Fish offers electronic slot machine and other
 20 internet casino games to consumers. Consumers play Big Fish Casino and Jackpot
 21 Magic Slots on Apple iOS devices, Android Devices, and Facebook.

22 3. The Ninth Circuit recently held that prior versions of Big Fish Casino
 23 “constitutes illegal gambling under Washington law.” *Kater v. Churchill Downs Inc.*, 886
 24 F.3d 784, 785 (9th Cir. 2018).

25 4. According to Defendants, Big Fish Casino is the “#1 Casino Game App.”
 26 Big Fish Casino and Jackpot Magic Slots have nearly 200,000 ratings on the Apple App
 27 Store. Big Fish Casino has over 400,000 ratings on the Google Play Store. Jackpot
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1 Magic Slots has nearly 200,000 ratings on the Google Play Store.

2 5. On information and belief, in 2014, Churchill Downs acquired Big Fish for
3 \$885 million.

4 6. On information and belief, in 2018, Churchill Downs sold Big Fish to a
5 foreign slot machine manufacturer, Aristocrat Leisure, for approximately \$990 million.

6 7. On information and belief, Aristocrat Leisure Limited is an Australian
7 gambling machine manufacturer and the parent company of Big Fish Games.

8 8. Big Fish Casino and Jackpot Magic Slots are free for consumers to
9 download and play. Defendants reap massive profits by selling thousands of “in-app”
10 items that range from \$1.99 to \$99.99. However, in its direct marketing to consumers
11 (including representations made at the time of purchase), Big Fish advertised false
12 former prices to induce players into believing they must act quickly to take advantage of
13 a limited-time sale price.

14 9. Big Fish has deceived consumers by offering specific limited time
15 “bonuses” that purported to massively discount the price of its in-game goods. It used
16 strikethrough pricing and statements like “SALE!” and “5.5X” alongside countdown
17 clocks to trick consumers into believing they were benefitting from limited-time
18 promotions that substantially increased the value of their in-game purchases. These
19 purported savings were false, however, because the stricken “original” pricing that these
20 ads referenced were fabricated.

21 10. These special offers and sales ran for months or longer. But at no point,
22 let alone within three months of the advertised discounts, were these in-game items
23 ever actually offered at the “original” non-discounted price. Stated differently, Big Fish
24 never sold the in-game items at the original price that was stricken in the sales
25 promotions. It just offered false presentations of purported discounts from original
26 prices that never existed, and its players bought packs on “sale.”

27 11. Further, the advertised “original” pricing does not reflect the prevailing
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1 market retail pricing for these virtual in-game items, which have no real-world value and
2 whose pricing is entirely determined by Big Fish.

3 12. The Federal Trade Commission ("FTC") describes as false former pricing
4 schemes as deceptive: "One of the most commonly used forms of bargain advertising is
5 to offer a reduction from the advertiser's own former price for an article. If the former
6 price is the actual, bona fide price at which the article was offered to the public on a
7 regular basis for a reasonably substantial period of time, it provides a legitimate basis
8 for the advertising of a price comparison. Where the former price is genuine, the bargain
9 being advertised is a true one. If, on the other hand, the former price being advertised is
10 not bona fide but fictitious - for example, where an artificial, inflated price was
11 established for the purpose of enabling the subsequent offer of a large reduction - the
12 'bargain' being advertised is a false one; the purchaser is not receiving the unusual
13 value he expects." 16 CFR §233.1(a).

14 13. California statutory and regulatory law also expressly forbids such false
15 discounted pricing schemes: "No price shall be advertised as a former price of any
16 advertised thing, unless the alleged former price was the prevailing market price as
17 above defined within three months next immediately preceding the publication of the
18 advertisement or unless the date when the alleged former price did prevail is clearly,
19 exactly and conspicuously stated in the advertisement." Cal. Bus. & Prof. Code
20 §17501.

21 14. Defendants knew, or should reasonably have known, that its comparative
22 price advertising was false, deceptive, misleading, and unlawful.

23 15. Defendants fraudulently concealed from and intentionally failed to disclose
24 to Plaintiff the truth about its advertised price discounts and former prices.

25 16. Through this false and deceptive marketing, advertising, and pricing
26 scheme, Big Fish has violated California law prohibiting the advertisement of goods for
27 sale as discounted from false former prices and prohibiting misleading statements about
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1 the existence and amount of price reductions.

2 17. The claims and issues asserted herein are governed by California state
3 law. The State of California has the greatest interest in policing corporate conduct
4 occurring within the State.

5 18. Plaintiff hereby seeks restitution, injunctive relief, punitive damages,
6 attorneys' fees, and all other relief which the Court may deem appropriate.

7 **PARTIES**

8 19. Plaintiff Nathan Campos is a citizen and resident of Los Angeles County,
9 California. He began playing Big Fish Casino and Jackpot Magic Slots on or around
10 February 27, 2022 having downloaded the Games from the Apple App Store in this
11 District. Being presented immediately with promotions for limited times sales on various
12 in-game bundles for gold and chips, he purchased various in-game bundles in both Big
13 Fish Games and Jackpot Magic Slots in this District, which he otherwise would not have
14 purchased had he known about the deceptive advertising which he reasonably relied
15 upon in making those purchases.

16 20. On or about March 20, 2022, within 30 days of downloading and first
17 logging into Big Fish Games and Jackpot Magic Slots, Plaintiff exercised his option to
18 opt out of Defendant's dispute resolution provisions, including mandatory arbitration,
19 choice of law and venue provisions, by providing written notice to Big Fish Games, Inc.
20 Plaintiff continued to make in-game purchases in the Games, which Defendant
21 accepted, after Plaintiff sent his opt-out notice.

22 21. On information and belief, Defendant Daniel Helmhold is a resides in or
23 around San Francisco, California.

24 22. On information and belief, Helmhold is the Vice President for Growth at
25 Big Fish Games, Inc. whose responsibilities include marketing of the Games.

26 23. On information and belief, Defendant Big Fish Games, Inc., is a
27 corporation organized and existing under the laws of the State of Washington, with its
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1 principal place of business at 906 Alaskan Way, Suite 700, Seattle, Washington 98104.

2 24. On information and belief, Big Fish has a corporate office located in
3 Oakland, California.

4 25. On information and belief, Aristocrat Leisure Limited is a publicly traded
5 Australian corporation with its principal place of business at Building A Pinnacle, Office
6 Par 85 Epping, Road North Ryde, NSW, 2113 Australia. On information and belief,
7 Aristocrat Leisure is the parent company of Big Fish, Inc.

8 **JURISDICTION AND VENUE**

9 26. This Court has subject matter jurisdiction over this class action pursuant to
10 Code of Civ. Proc. §410.10, Bus. & Prof. Code §17204, and the California Constitution,
11 Article VI, section 10, because this case is not given by statute to any other trial courts.

12 27. Plaintiff alleges, upon information and belief, that each of the Defendants
13 conduct professional and commercial activities in California on a substantial,
14 continuous, and systematic basis and therefore each of the Defendants are subject to
15 the general jurisdiction of the courts of this state.

16 28. Plaintiffs further allege, upon information and belief, that the claims
17 asserted in this complaint arise out of or are related to each of the Defendants'
18 professional and commercial activities within California, and therefore each of the
19 Defendants are subject to the specific jurisdiction of the courts of this state.

20 29. Venue is proper in this court because at all relevant times Plaintiff resided
21 in the County of Los Angeles, California and the claims asserted in this complaint arise
22 out of acts, transactions, and conduct that occurred in whole or in part within the County
23 of Los Angeles, California. Venue is also proper in this Court because Defendants has
24 an office in Oakland, California involved in the promotion and operation of the Games
25 and therefore many of the alleged unlawful acts and practices alleged herein took place
26 in California.
27

28 / / /

FACTS

30. Big Fish Casino and Jackpot Magic Slots are mobile application casino-style games developed and distributed by Big Fish Games, Inc. (collectively referred to herein as “Games.”) These Games are available on iPhone and Android devices through the Apple App Store and Google Play platforms, respectively.

31. Big Fish Casino offers a variety of casino type games, including slot machines and card games, including blackjack and poker. Users receive a certain amount of free chips for use in the Big Fish Casino when they first download Big Fish Casino and periodically when they log into the game. Users can also purchase chips and gold for use in the Big Fish Casino games through the virtual store.

32. Jackpot Magic Slots offers a variety of virtual slot machine games. Users receive a certain amount of free chips to play the slot machine games when they first download Jackpot Magic Slots and periodically when they log into the game. Users can also purchase virtual gold coins for use in the Jackpot Magic Slots games through the virtual store.

33. Once players have exhausted their free chips or gold in the Games through the Games’ various casino-style games, their only viable option to continue playing on a given day is to purchase additional chips from the virtual stores offered by the Games. Users can purchase bundles of in-game chips or gold ranging in price from \$1.99 to \$99.99.

34. When a player logs into the Games, a pop-up advertisement for a “sale” on chip or gold bundles often times fills the screen, prompting the player to either accept the purchase or close the advertisement by clicking “X” in the corner to continue playing the game. This “sale” is also shown in the in-game stores of the Games.

35. Nearly every displayed “sale” in the Games’ respective stores has a countdown timer counting down the time that the “sale” is still available. This countdown timer creates a false sense of urgency and scarcity to induce a player to

1 purchase a bundle immediately.

2 36. The advertisement of these bundles purportedly on sale are false,
3 deceptive and intended to mislead players into making in-app purchases that they
4 otherwise would not have made. Defendant falsely promotes these bundles as being
5 on sale or discounted by misrepresenting that such packs include limited-time bonuses
6 that purport to substantially increase the value of the bundles.

7 37. There are two primary categories of deceptive bundle advertisements: (a)
8 bundles that are advertised by creating the illusion of chip and/or gold discounts through
9 the strikethrough graphics (referred to hereinafter as "False Strikethrough Ads") and (b)
10 bundles that are falsely advertised with a display indicating a limited time offer for a
11 purported special event (referred to hereinafter as "False Limited Time Specials").
12 Bundles may be advertised through one or both of these categories at any given time.

13 **False Strikethrough Ads**

14 38. The False Strikethrough Ads display a small amount of chips or gold, with
15 a strikethrough line, and then in larger, bold-faced, gold colored font, a larger amount of
16 chips or gold, implying that the bundle normally contains a smaller amount of gold for
17 the same price. For example, a \$1.99 bundle may have 20,000 chips with a
18 strikethrough line over that number and display in bigger, bolder and shiny letters
19 165,000 chips. The intended message is that the bundle typically contains 20,000 chips
20 for that price but is now being offered with 50% more chips at the same price. An
21 example of such a display for Big Fish Casino is shown below:
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An example of such a display for Jackpot Magic Slots is shown below:



39. There are numerous of False Strikethrough Ads used to sell bundles in the Games on a daily basis. On information and belief, these bundles never offered the amount of chips or gold stricken for the displayed price. The False Strikethrough Ads applies across every price point in the Games, including the \$1.99 bundles, \$4.99 bundle, \$9.99 bundle, \$19.99 bundle, \$49.99 bundle and \$99.99 bundle.

40. The higher priced bundles further include a banner indicating a

1 percentage increase of value over the purported “normal” bundle to further mislead
2 consumers into purchasing more expensive bundles. However, the “normal” bundle
3 that is stricken and that provides the apparent baseline for the “+240%” representation,
4 for example, was never offered.

5 41. Defendants had actual knowledge that the False Strikethrough Ads
6 contained false or misleading misrepresentations as to their prior values. Big Fish
7 Games designed and promoted these advertisements while having actual knowledge
8 that these quantitative representations of sale values were false.

9 42. These chips and gold are critical to the Games, as they are necessary for
10 the players to continue playing the casino-style games once they inevitably lose all of
11 their virtual chips and gold on a given day. While players may receive a certain amount
12 of chips or gold as daily incentives to log in or through other promotions and gameplay
13 incentives, purchasing of chips or gold through real currency is the only way for a player
14 to continue playing the games on a given day once their supply of free chips or gold is
15 depleted to the Games’ gambling-style gameplay.

16 43. Defendants promoted these advertisements to induce players to purchase
17 the chip and gold bundles all the while knowing that the packs contained quantitative
18 misrepresentations with respect the value of chips and gold displayed.

19 44. The amount of chips or gold included in a bundle, and whether the bundle
20 being offered for sale represents a good value and outsized amount of chips or gold a
21 player is receiving for his or her purchase with the corresponding bundle, is a material
22 consideration when a player decides whether to purchase a bundle.

23 45. Plaintiff and those similarly situated reasonably relied on the
24 “striethrough” pricing when purchasing bundles promoted through False Strikethrough
25 Ads. Had Plaintiff and those similarly situated known the “striethrough” pricing was
26 false, Plaintiff would not have purchased some or all of the bundles promoted through
27 False Strikethrough Ads.
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1 46. The False Strikethrough Ads are violative of 16 CFR §233.1(a) because
 2 the former, stricken, deals displayed in the False Strikethrough Ads are not “actual,
 3 bona fide price at which the article was offered to the public on a regular basis for a
 4 reasonably substantial period of time.” Rather, the False Strikethrough Ads display
 5 former bundles that are “fictitious” and with “an artificial, inflated price” for the purpose of
 6 creating the false perception to the consumer “of a large reduction.” The False
 7 Strikethrough Ads promote a false bargain where “the purchaser is not receiving the
 8 unusual value he expects.” *Id.*

9 47. The False Strikethrough Ads are also violative of Cal. Bus. & Prof. Code
 10 §17501, because the former bundle and price advertised were never “the prevailing
 11 market price ... within three months next immediately preceding the publication of the
 12 advertisement.” Nor do the False Strikethrough Ads “clearly, exactly and conspicuously
 13 stated in the advertisement” when such former prices were prevailing.

14 **False Limited Time Specials**

15 48. The False Limited Time Specials misrepresent the existence of a limited-
 16 time sale whereby players can allegedly purchase more chips or gold from a pack than
 17 they normally could for the same price. These are described as having a unique, limited
 18 time, value as compared to a non-sale time period. This misimpression is created
 19 through words such as “Sale,” “Special Sale!,” “5X Sale,” “VIP Bonus” and a countdown
 20 timer prominently displayed. These False Limited Time Specials communicate to the
 21 reasonable player of the Games that the bundles contain extra chips or gold relative the
 22 normal version of the bundles during a non-sale time period. But no such non-sale
 23 period ever exists.

24 49. Other False Limited Time Specials utilize holidays or other arbitrary events
 25 to create the impression that the bundle pricing is connected to a special occasion,
 26 thereby creating a false sense of urgency in the consumer.

27 50. Defendants intentionally designed the bundles and their promotion to
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1 mislead players of the Games into believing that the bundles represented a sale value
2 available for only a limited time, including an increase in chips and gold, to induce those
3 players to purchase the packs.

4 51. Plaintiff and those similarly situated reasonably relied on the "Sale"
5 graphics on the False Limited Time Specials as a material consideration in purchasing
6 the advertised bundles. Had Plaintiff and those similarly situated known that bundles
7 were not actually on sale in the manner represented and that there was no urgency in
8 purchasing those bundles at the purported sale price, when would not have purchase
9 some or all of the bundles advertised using the False Limited Time Specials.

10 **APPLICABLE LAW**

11 52. Plaintiff is a citizen and resident of Los Angeles County, California. He
12 downloaded and signed in for the first time to the Games in California on or about
13 February 27, 2022. On or about March 20, 2022, within 30 days of downloading and
14 logging into Big Fish Games and Jackpot Magic Slots, Plaintiff exercised his option to
15 opt out of Defendant's dispute resolution provisions, including mandatory arbitration,
16 choice of law and venue provisions by providing written notice to Big Fish Games, Inc.

17 53. After providing Big Fish with his notice to opt out of Big Fish's dispute
18 resolution provisions, Plaintiff continued to make in-game purchases in the Games that
19 Big Fish continued to accept.

20 54. California's substantive laws may be constitutionally applied to the claims
21 of Plaintiff under the Due Process Clause, 14th Amend. §1, and the Full Faith and Credit
22 Clause, Art. IV §1 of the U.S. Constitution. California has significant contacts, or
23 significant aggregation of contacts, to the claims asserted by Plaintiff, thereby creating
24 state interests that ensure that the choice of California state law is not arbitrary or unfair.

25 55. On information and belief, one of two domestic offices of Big Fish Games
26 is in Oakland, California and conducts substantial business in California.

27 56. On information and belief, Helmhold, who is in charge of Big Fish's
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1 marketing campaigns, lives and works in California.

2 57. Therefore, California has an interest in regulating Defendants' conduct
3 under its laws, and to engage in the challenged conduct from and emanating out of
4 California, renders the applicability of California law to the claims herein constitutionally
5 permissible.

6 58. The application of California laws is also appropriate under California's
7 choice of law rules because California has significant contacts to the claims of Plaintiff,
8 and California has a greater interest in applying its laws here than any other interested
9 state.

10 59. Should Washington law be found to apply to these claims, Washington
11 has consumer protection laws that correspond in relevant part to those in California and
12 violations of those laws are pled herein solely in the alternative and not as a concession
13 as to the applicability of Washington law to this case. The applicability of Washington
14 law to this case, should it be applied, does not undermine the appropriateness of venue
15 in this Court.

16 **CLASS ALLEGATIONS**

17 60. Plaintiff brings this action individually and as a representative of all those
18 similarly situated, on behalf of the below-defined Classes:
19

- 20 a) **Big Fish Casino Class:** All persons in the state of California who, within
21 the applicable statute of limitations, paid money for an in-game purchase
22 in Big Fish Casino.
- 23 b) **Jackpot Magic Slots Class:** All persons in the state of California who,
24 within the applicable statute of limitations, paid money for an in-game
25 purchase in Jackpot Magic Slots.

26 61. Excluded from the Classes are Defendants, their affiliates, parents,
27 subsidiaries, employees, officers, agents and directors. Also excluded are any judicial
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1 officers presiding over this matter and the members of their immediate families and
2 judicial staffs.

3 62. This case is appropriate for class treatment because Plaintiff can prove
4 the elements of his claims on a class-wide basis using the same evidence as would be
5 used to prove those elements in individual actions alleging the same claims.

6 63. **Numerosity:** The members of the Classes are so numerous that joinder
7 of all members would be unfeasible and not practicable. The membership of the
8 Classes is unknown to Plaintiff at this time; however, it is estimated both the Big Fish
9 Casino Class and Jackpot Magic Slots Class number in the thousands. The identity of
10 such membership is readily ascertainable via inspection of Defendants' books and
11 records or other approved methods. Similarly, Class members may be notified of the
12 pendency of this action by mail, email, internet postings, publications and/or in-game
13 messaging.

14 64. **Common Questions of Law or Fact:** There are common questions of
15 law and fact as to Plaintiff and all other similarly situated persons, which predominate
16 over questions affecting only individual Class members, including, without limitation:

- 17 a. Whether Defendant engaged in the conduct alleged in the Complaint;
- 18 b. Whether Defendant violated the applicable statutes alleged herein;
- 19 c. Whether Defendant designed, advertised, marketed, distributed, sold,
20 or otherwise placed Big Fish Casino into the stream of commerce in
21 the United States;
- 22 d. Whether Defendant designed, advertised, marketed, distributed, sold,
23 or otherwise placed Jackpot Magic Slots into the stream of commerce
24 in the United States;
- 25 e. Whether Defendant engaged in conduct directed to the State of
26 California;
- 27 f. Whether Defendant's presentation of False Strikethrough Ads are
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- misleading to a reasonable consumer;
- g. Whether Defendant's presentation of False Limited Time Specials are misleading to a reasonable consumer;
- h. Whether Plaintiff and members of the Classes were injured and harmed directly by Defendant's false advertising designed to entice users into making in-app purchases they otherwise would not have made;
- i. Whether Plaintiff and members of the Classes are entitled to damages due to Defendant's conduct as alleged in this Complaint, and if so, in what amounts;
- j. Whether Plaintiffs and members of the Classes are entitled to equitable relief, including, but not limited to, restitution or injunctive relief as requested in this Complaint.

65. **Typicality:** Plaintiff's claims are typical of the claims of the other members of the Classes because, among other things, Plaintiff and all Class members were comparably injured through Defendants' misconduct described above. As alleged herein, Plaintiff, like the members of the Class, was deprived of monies that rightfully belonged to them by Defendants. Further, there are no defenses available to Defendants that are unique to Plaintiff.

66. **Adequacy of Representation:** Plaintiff is an adequate class representative because he is fully prepared to take all necessary steps to represent fairly and adequately the interest of the class members of the Classes, and because his interests do not conflict with the interests of other Class members he seeks to represent. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent Plaintiff and the members of the Class. Plaintiff's attorneys are experienced in complex class action litigation, and they will prosecute this action vigorously. Plaintiff and his counsel, who are experienced class action lawyers, will fairly

1 and adequately protect the Class members' interests.

2 67. **Superiority:** The nature of this action and the laws available to Plaintiff
 3 and members of the Classes make the class action format a particularly efficient and
 4 appropriate procedure to redress the violations alleged herein. If each Class member
 5 were required to file an individual lawsuit, Defendants would necessarily gain an
 6 unconscionable advantage since it would be able to exploit and overwhelm the limited
 7 resources of each individual plaintiff with its vastly superior financial and legal
 8 resources. Moreover, the prosecution of separate actions by the individual Class
 9 members, even if possible, would create a substantial risk of inconsistent or varying
 10 verdicts or adjudications with respect to the individual Class members against
 11 Defendants, and which would establish potentially incompatible standards of conduct for
 12 Defendant and/or legal determinations with respect to individual Class members which
 13 would, as a practical matter, be dispositive of the interest of the other Class members
 14 not parties to adjudications or which would substantially impair or impede the ability of
 15 the Class members to protect their interests. Further, the claims of the individual
 16 members of the Class are not sufficiently large to warrant vigorous individual
 17 prosecution considering all of the concomitant costs and expenses attending thereto.
 18

19 **FIRST CLAIM FOR RELIEF**

20 **Violation of California's Unfair Competition Law ("UCL")**

21 **Cal. Bus. & Profession Code §17200 *et seq.***

22 68. Plaintiff incorporates by reference all allegations in this Complaint and
 23 restates them as if fully set forth herein.

24 69. The UCL defines unfair business competition to include any "unlawful,
 25 unfair or fraudulent" act or practice, as well as any "unfair, unfair or fraudulent" act or
 26 practice, as well as any "unfair, deceptive, untrue or misleading" advertising. Cal. Bus. &
 27 Prof. Code §17200.
 28

1 70. A business act or practice is “unlawful” under the UCL if it violates any
2 other law or regulation.

3 71. A business act or practice is “unfair” under the UCL if the reasons,
4 justifications, and motives of the alleged wrongdoer are outweighed by the gravity of the
5 harm to the alleged victims. A business act or practice is “fraudulent” under the UCL if it
6 is likely to deceive members of the consuming public.

7 72. Defendants violated the “unlawful” prong under the UCL and has engaged
8 in “unfair, deceptive, untrue or misleading” advertising.

9 73. The Federal Trade Commission Act prohibits “unfair or deceptive acts or
10 practices in or affecting commerce” (15 U.S.C. §45(a)(1)) and specifically prohibits false
11 advertisements. 15 U.S.C. §52(a). FTC Regulations describe false former pricing
12 schemes-similar to Defendants’ False Sale Packs and False Gold Strikethrough Packs
13 in all material respects-as deceptive practices that would violate the FTC Act.

14 74. 16 C.F.R. §233.1 states:

15 (a) One of the most commonly used forms of bargain
16 advertising is to offer a reduction from the advertiser's own
17 former price for an article. If the former price is the actual,
18 bona fide price at which the article was offered to the public
19 on a regular basis for a reasonably substantial period of
20 time, it provides a legitimate basis for the advertising of a
21 price comparison. Where the former price is genuine, the
22 bargain being advertised is a true one. If, on the other hand,
23 the former price being advertised is not bona fide but
24 fictitious - for example, where an artificial, inflated price was
25 established for the purpose of enabling the subsequent offer
26 of a large reduction - the “bargain” being advertised is a
27 false one; the purchaser is not receiving the unusual value
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1 he expects. In such a case, the “reduced” price is, in reality,
 2 probably just the seller's regular price.

3 (b) A former price is not necessarily fictitious merely
 4 because no sales at the advertised price were made. The
 5 advertiser should be especially careful, however, in such a
 6 case, that the price is one at which the product was openly
 7 and actively offered for sale, for a reasonably substantial
 8 period of time, in the recent, regular course of his business,
 9 honestly and in good faith - and, of course, not for the
 10 purpose of establishing a fictitious higher price on which a
 11 deceptive comparison might be based. And the advertiser
 12 should scrupulously avoid any implication that a former
 13 price is a selling, not an asking price (for example, by use of
 14 such language as, “Formerly sold at \$____”), unless
 15 substantial sales at that price were actually made.

16 75. California law also prohibits false former pricing schemes.
 17 Cal. Bus. Code. §17501 entitled “Value determinations; Former price
 18 advertisements,” states:
 19

20 For the purpose of this article the worth or value of anything
 21 advertised is the prevailing market price, wholesale if the
 22 offer is at wholesale, retail if the offer is at retail, at the time
 23 of publication of such advertisement in the locality wherein
 24 the advertisement is published.

25 No price shall be advertised as a former price of any
 26 advertised thing, unless the alleged former price was the
 27 prevailing market price as above defined within three
 28 months next immediately preceding the publication of the

1 advertisement or unless the date when the alleged former
 2 price did prevail is clearly, exactly and conspicuously stated
 3 in the advertisement.

4 76. California's False Advertising Law also prohibits a business from
 5 "[a]dvertising goods or services with intent not to sell them as advertised," Cal. Civ.
 6 Code §1770(a)(9), and prohibits a business from "[m]aking false or misleading
 7 statements of fact concerning reasons for, existence of, or amounts of price reductions."
 8 *Id.* §(a)(13).

9 77. The False Strikethrough Ads violate the unlawful prongs of the UCL since
 10 they violate 16 C.F.R. §233.1, Cal. Bus. Prof. Code §1750, Cal. Civ. Code §§1770(a)(9)
 11 and (a)(13).

12 78. The False Limited Time Specials misrepresent the existence of a short-
 13 lived sale whereby players can allegedly purchase more virtual items in bundle than
 14 they normally could for the same price.

15 79. Defendants' use of the False Limited Time Specials violates 15 U.S.C.
 16 §45(a)(1), 15, U.S.C. §52(a), and the FTC Guidelines published in Title 16, Code of
 17 Federal Regulations, Section 233.

18 80. Defendants' use of the False Limited Time Specials also violated and
 19 continues to violate Cal. Bus. & Prof. Code §17501 and Cal. Civ. Code §1770, sections
 20 (a)(9) and (a)(13), by advertising false discounts from purported former prices that were,
 21 in fact, not the prevailing market prices within three months preceding the publication
 22 and dissemination of advertisements containing the false former prices.

23 81. Defendants also violated the "unfair" prong of the UCL by falsely
 24 representing that its consumers received a discount from a referenced "original" former
 25 price show in its False Strikethrough Ads. In fact, Defendants displayed an arbitrary
 26 price for the goods contained in these bundles and then falsely pretended the bundles
 27 had been offered for sale at a value less than their "limited time sale" contents.
 28

1 82. Additionally, Defendants violated the “unfair prong” of the UCL by falsely
2 representing that its False Limited Time Specials contained unique, time-sensitive
3 discounts, when, in fact, they contained the same in-game items as other packs not
4 connected with specific sales events.

5 83. The gravity of the harm to Plaintiff and Class members resulting from
6 these unfair acts and practices outweighs any conceivable reasons, justifications, or
7 motives that Defendants may have had for engaging in such deceptive acts and
8 practices.

9 84. Additionally, Defendants violated the “fraudulent” prong of the UCL
10 because its marketing and advertising materials included false “original” prices in its
11 False Strikethrough Ads, and because these same materials also suggested that the
12 offers in the False Limited Time Specials were unique, limited, and would no longer be
13 available at those price points following the conclusion of its sale events. In actuality, the
14 bundles never contained the “limited time” deals they purported to offer.

15 85. Defendants’ acts and practices deceived Plaintiff and the public at
16 large. Specifically, Plaintiff and Class members relied on these misleading and
17 deceptive representations regarding the limited-time bonuses they could expect to
18 receive in the packs. Each of these representations and deceptions played a
19 substantial role in Plaintiff’s and Class members’ decisions to purchase the packs,
20 and Plaintiff a n d C l a s s m e m b e r s w o u l d n o t h a v e d o n e s o i n t h e
21 absence of such representations.

22 86. As a result of these violations under each of the fraudulent, unfair, and
23 unlawful prongs of the UCL, Defendants have been unjustly enriched at the expense of
24 Plaintiff and members of the Classes. Specifically, Defendants have been unjustly
25 enriched by obtaining revenues and profits that it would not otherwise have obtained
26 absent its false, misleading, and deceptive conduct.

27 87. Through its unfair acts and practices, Defendants improperly obtained
28

1 money from Plaintiff and Class members. As such, Plaintiff, on behalf of himself and
 2 members of the Classes, requests that this Court cause Defendants to restore this
 3 money to Plaintiff and members of the Classes, disgorge Defendants of their unjust
 4 profits and to enjoin Defendant from continuing to violate the UCL, and/or from violating
 5 the UCL in the future. Otherwise, Plaintiff and members of the Classes may be
 6 irreparably harmed and/or denied an effective and complete remedy if such an order is
 7 not granted.

8 88. Alternatively, if Washington law is to apply in this case, the above
 9 allegations constitute violations of Washington Consumer Protection Act RCW Chapter
 10 19.86 entitling Plaintiff to the same remedies set forth above and below. See RCW
 11 19.86.020 (private right of action); 19.86.093 (Permanent Public Injunctive Relief Under
 12 the Washington Consumer Protection Act).

13 **SECOND CLAIM FOR RELIEF**

14 **Violation of California False Advertising Law ("FAL")**

15 **Cal. Business & Professional Code §17500 *et seq.***

16 89. Plaintiff incorporates by reference all allegations in this Complaint and
 17 restates them as if fully set forth herein.

18 90. The FAL prohibits unfair, deceptive, untrue, or misleading advertising,
 19 including, but not limited to, false statements as to worth, value, and former price.
 20

21 91. Furthermore, the FAL provides that: "No price shall be advertised as a
 22 former price of any advertised thing, unless the alleged former price was the prevailing
 23 market price as above defined within three months next immediately preceding the
 24 publication of the advertisement or unless the date when the alleged former price did
 25 prevail is clearly, exactly and conspicuously stated in the advertisement." Cal. Bus. &
 26 Prof. Code §17501.

27 92. The False Strikethrough Ads and the False Limited Time Specials
 28 misrepresent the existence of a sale whereby players can allegedly purchase more

1 chips and gold from a bundle than they normally could for the same price.

2 93. Through its unfair acts and practices, Defendants improperly obtained
3 money from Plaintiff and members of the Classes. As such, Plaintiff, on behalf of himself
4 and members of the Classes, requests that this Court cause Defendants to restore this
5 money to Plaintiff and members of the Classes, disgorge Defendants of their unjust
6 profits and to enjoin Defendant from continuing to violate the FAL, and/or from violating
7 the FAL in the future. Otherwise, Plaintiff and members of the Classes may be
8 irreparably harmed and/or denied an effective and complete remedy if such an order is
9 no granted.

10 94. Alternatively, if Washington law is to apply in this case, the above
11 allegations constitute violations of Washington Consumer Protection Act RCW Chapter
12 19.86 and 19.94 entitling Plaintiff to the same remedies set forth above and below. See
13 RCW 19.86.020 (private right of action); 19.86.093 (Permanent Public Injunctive Relief
14 Under the Washington Consumer Protection Act); 19.94.390 (Price not to be
15 misleading, deceiving, misrepresented).

16 **THIRD CLAIM FOR RELIEF**

17 **Violation of the California Consumer Legal Remedies Act ("CLRA")**

18 **Cal. Civ. Code. §1750 et seq.**

19 95. Plaintiff incorporate by reference all allegations in this Complaint and
20 restate them as if fully set forth herein.

21 96. Plaintiff and each member of the Classes are a consumer within the
22 meaning of Cal. Civ. Code §1761(d) and have engaged in a transaction within the
23 meaning of Cal. Civ. Code §§1761(e) and 1770.

24 97. Defendants are each a "person" within the meaning of Cal. Civ. Code
25 §§1761(c) and 1770 and sells "goods or services" within the meaning of Cal. Civ. Code
26 §§1761(b) and 1770.

27 98. The Games and the in-app purchases are a "good" or "service" within the
28

1 meaning of Cal. Civ. Code. §§1761(a) and (b).

2 99. Defendants violated §1770(a)(13)'s proscription against making false or
3 misleading statements of fact concerning reasons for, existence of, or amounts of, price
4 reductions by misrepresenting the existence of chip and gold discounts via False
5 Strikethrough Ads and misrepresenting the existence of special event sales through its
6 False Limited Time Specials.

7 100. Plaintiff and members of the Classes suffered actual damages as a direct
8 and proximate result of Defendants' actions, concealment, and/or omissions in the
9 advertising, marketing, and promotion of its bait apps, in violation of the CLRA, as
10 evidenced by the substantial sums Defendants pocketed.

11 101. Plaintiff, on behalf of himself and members of the Classes, demands
12 judgment against Defendant for injunctive relief and attorney's fees.

13 102. Alternatively, if Washington law is to apply in this case, the above
14 allegations constitute violations of Washington Consumer Protection Act RCW Chapter
15 19.86 and 19.94 entitling Plaintiff to the same remedies set forth above. See RCW
16 19.86.020 (private right of action); 19.86.093 (Permanent Public Injunctive Relief Under
17 the Washington Consumer Protection Act); 19.94.390 (Price not to be misleading,
18 deceiving, misrepresented).

19 **FOURTH CLAIM FOR RELIEF**

20 **Fraud**

21 103. Plaintiff incorporate by reference all allegations in this Complaint and
22 restate them as if fully set forth herein.

23 104. Defendants represented to Plaintiff and members of the Classes that
24 various in-game purchases were on sale in that they gave a higher amount of chips or
25 gold than normal, that special events or "sale" versions of the bundles were significantly
26 greater in value than their normal counterparts.

27 105. These representations were false because the bundles were never offered
28

1 at the purported “normal” amount of chips or gold and the items were perpetually on
2 “sale.”

3 106. Defendants designed the graphical images on the advertisements in a way
4 that intentionally attracted Plaintiff and members of the Classes to the enticing but false
5 claims regarding the value of in-game purchases and the existence of sales.

6 107. Plaintiff and members of the Classes reasonably relied upon the claims
7 made in the advertisements in deciding to purchase the aforementioned bundles.

8 108. Upon purchasing the bundles, Plaintiff and members of the Classes were
9 harmed because, had they known Defendants’ representations were false, they would
10 not have made those purchases.

11 109. Plaintiff’s and Class members’ reliance on Defendants’ misrepresentations
12 in its bundle advertisements was a substantial factor in causing harm to Plaintiff and
13 Class members.

14 110. Defendants’ conduct has therefore caused and is causing immediate and
15 irreparable injury to Plaintiff and Class members and will continue to both damage
16 Plaintiff and deceive Class members and the public unless enjoined by this Court.

17 **FIFTH CLAIM FOR RELIEF**

18 **Negligent Misrepresentation**

19 111. Plaintiff incorporate by reference all allegations in this Complaint and
20 restate them as if fully set forth herein.

21 112. Defendants represented to Plaintiff and Class members that various
22 purchased bundles were on sale in that they gave a higher amount of chips and gold
23 than normal and that special event or “sale” versions of the packs were not identical in
24 item quantities to their normal counterparts.

25 113. These representations were false because the bundles were never offered
26 at the non-sale or special amount of chips or gold and the “sale” versions of the packs
27 were identical to their normal counterparts.
28

114. Defendants designed the graphical images on the advertisements in a way that intentionally attracted Plaintiff to the enticing but false claims regarding chip and gold amounts and the existence of sales.

115. Defendants' conduct has therefore caused and is causing immediate and irreparable injury to Plaintiff, Class members and the general public and will continue to both damage Plaintiff and deceive the public unless enjoined by this Court.

SIXTH CLAIM FOR RELIEF

Unjust Enrichment

116. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

117. By means of wrongful conduct alleged herein, Defendants knowingly misrepresented the value of virtual bundles offered for sale in the Games by comparing the value of those bundles to false or fictitious deals in a way that unfair, unconscionable, and oppressive.

118. Plaintiff and members of the Classes conferred an economic benefit upon Defendants by paying for the in-game bundles, and Defendants had an appreciation or knowledge of the benefit conferred by Plaintiff and member of the Classes.

119. Plaintiff and members of the Classes would not have paid for the in-game bundles had they known those bundles were not actually on sale.

120. Defendants accepted and retained economic benefit conferred by Plaintiff and members of the Classes under circumstances as to make it inequitable for Defendants to retain the benefit without payment of its value.

121. The financial benefits obtained by Defendants rightfully belong to Plaintiff and member of the Classes. Defendants should be compelled to disgorge in a common fund for the benefit of Plaintiff and member of the Classes all wrongful or inequitable proceeds of their conduct. A constructive trust should be imposed upon all wrongful or inequitable sums received by Defendants traceable to Plaintiff and members of the

1 Classes.


2 **PRAYER FOR RELIEF**

3 Plaintiff prays for relief and judgment against Defendant as follows:

- 4 A. Certifying the proposed Classes defined herein;
- 5 B. Appointing Plaintiff as Class Representative;
- 6 C. Appointing counsel for Plaintiff as Class Counsel;
- 7 D. Declaring Defendants' conduct to be unlawful;
- 8 E. Awarding Plaintiff and Class members compensatory damages and actual
- 9 damages in an amount to be determined by proof;
- 10 F. Awarding Plaintiffs and Class members actual and statutory damages;
- 11 G. For punitive damages;
- 12 H. For civil penalties;
- 13 I. For declaratory and equitable relief, including restitution and disgorgement;
- 14 J. For an order enjoining Defendant from continuing to engage in the wrongful acts
- 15 and practices alleged herein;
- 16 K. Awarding Plaintiff the costs of prosecuting this action, including expert witness
- 17 fees;
- 18 L. Awarding Plaintiff reasonable attorney's fees and costs as allowable by law;
- 19 M. Awarding pre-judgment and post-judgment interest; and
- 20 N. Granting any other relief as this Court may deem just and proper
- 21

22 DATED: April 20, 2022

THE RYAN LAW GROUP

24 

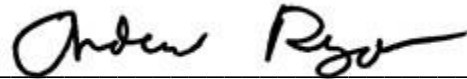
25 Andrew T. Ryan
26 Attorney for Plaintiff
27
28

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues and claims so triable.

DATED: April 20, 2022

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A handwritten signature in black ink, appearing to read "Andrew Ryan", written over a horizontal line.

Andrew T. Ryan
Attorney for Plaintiff